

**Michigan Citizens for Water Conservation  
Terry Swier's Testimony Presented to the  
Natural Resources, Great Lakes, Land Use and Environment Committee  
January 25, 2006**

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Thank you for the opportunity to testify today before the Natural Resources, Great Lakes, Land Use and Environment Committee.

When a tanker company wanted to ship more than the 156 million gallons of Lake Superior water to Asia, the public was in uproar, which led to the enactment of the federal Water Resource Development Act that limits water withdrawals. However, Nestlé may be permitted to withdraw more than that amount of spring water from Mecosta and Osceola Counties to sell for its own profit if it is successful in its lawsuit. Our concern is that if the legislature does not act immediately, Michigan may be severely hampered in its ability to stop out-of-basin diversion. Legislative approval for exports of water out of the Great Lakes basin would provide a first line of defense against exports of our water. It would not prohibit all exports, but would provide an additional safeguard against unwanted diversions of water. Therefore, it would stand up to legal challenges.

On behalf of Michigan Citizens for Water Conservation, I am asking you to make changes to Senate Bill 850. Without serious conservation measures and lacking strong riparian and public trust standards the legislature will be opening the door on diversions and sacrificing public ownership of Michigan's waters. By allowing the sale of water, whether in tankers or by export in bottles, – foreign investors, corporations, and others can claim ownership and can sell unlimited amounts of Michigan water without any public oversight. With an amendment to SB 850 Michigan Legislators would require legislative approval before any diversions of our water.

Five years ago, MCWC believed that irreparable harm would occur to local waterways due to the spring water pumping by Nestlé at a site in Mecosta, MI. Nestlé's pumping has caused harm to a stream by reducing the flow and level, narrowing the stream, exposing mud flats, and restricting the enjoyment of many of the members of MCWC of fishing, boating, and kayaking on the stream. In an historic decision three years ago, a circuit court judge in Michigan stopped Nestle, the Swiss food giant, from pumping groundwater that fed the headwaters of a stream for its Ice Mountain bottling plant. The findings of facts are in the court records that Nestlé pumping has and will continue into the future to create adverse impacts to the riparian uses and rights. What will the area be like for future generations? The lives of the 1,800 members of MCWC, those who live on the Tri-Lakes, and mine have changed for the worse since Nestlé came to Michigan. The issue has pitted neighbor against neighbor, and friendships have been severed. Nestlé has violated our lives either directly or indirectly with polling, private investigators, the threat of a SLAPP suit against my son, and the FBI coming to our homes. Nestlé has affected families – emotionally, physically, and mentally. This has spilled over into a statewide issue, and MCWC believes the majority of Michigan's citizens support much of what it has done and stands for.

Since 2000, Nestlé has continued to actively pursue other spring and groundwater sources in Michigan and is now trucking water in bulk on U.S. 131 expressway from Evart to its plant in Stanwood. The Evart issue is a separate case in itself, but many of the broader issues in the Mecosta lawsuit and appeal are present in the Evart diversion and export. It is in Michigan's best interest for the legislature to prevent wasteful diversions of water and to prevent other cases such as these.

There is nothing in the bill that prevents diversions of Great Lakes water outside Michigan's watersheds or the Great Lakes Basin whether through, tankers, trucks, rail, pipelines, bottles, or other methods of bulk water shipment. An amendment to SB 850 would prevent the private sale or export of water from Michigan and prohibit bottled water or other small container water export or sale outside of our watersheds if it would impair our water resources, if it has not been authorized and licensed, unless it meets the legal standards established by the Michigan Legislature.

Until this legislation, water in streams and lakes can be impaired or diminished – to interfere with the hundreds of thousands of riparian landowners, anglers, the flow and level of streams and their wetland bird and wildlife habitat, or the use of the public under the public trust doctrine. The legislation is a slight improvement to Michigan law, but members of MCWC will continue to push for stronger protections that we think the citizens of Michigan want to see enacted.